IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

EXECUTION APPLICATION NO.149 OF 2004
IN
APPEAL NO.114 OF 200

Tiger Steel LLC. ..Plaintiff/Applicant.

Vs.

Jindal Iron & Steel Ltd. and ors.

..Defendants.

Mr.D.D.Madan with Ms. Swati Deshpande i/by M.S. Bodhanwalla & Co. for the plaintiff.

Mr. Milind Sathe wkith Ms.Alphna Ghone i/by C.D. Patel for the respondent.

CORAM : R.S. MOHITE, J.
DATED : 05/9/2006.

P.C.

1. This is an application filed by the original plaintiff who has obtained a decree from a Foreign Court at Dubai. Leave is sought from this court under Order XXI rule 22 of the C.P.C. for execution of the said Judgment and decree of the Foreign Court which is dated 22.4.2005 and was passed in the court of Dubai in Appeal No.114/2000.

2. It is contended that on 29.5.2000 instrument of an agreement between the Republic of India and the UAE was entered in Abu Dhabi on 29.5.2000 and the text of the

agreement was published in the Gazette of India on 16.12.2000. On reading the text so published in the Official Gazette, it is further contended that UAE must be held to be a reciprocating territory and the Courts in UAE must be taken to be superior courts within the meaning of Explanation 1 of Section 44A of the C.P.C. It is fairly conceded that Section 44A is the only provision of law which permits execution of decrees passed by superior court in reciprocal territories and that such decree can be executed after obtaining leave from the court as provided in Order XXI Rule 22 of the C.P.C. However, on reading the Government Notification, I am of the view that the same is not a notification in the Official Gazette which declares UAE as a reciprocating territory for the purpose of Section 44A as required under Explanation 1 of Section 44A. It appears that the agreement is between the two nations and only pertains to execution of judgments and arritral awards where request for mutual legal assistance is sought to be made through the Ministry of Law, Justice and Company Affairs. There is no declaration in the said Gazette notification declaring UAE to be a reciprocal territory. There is no mention of Section 44A of the C.P.C. and none of the courts in UAE are specified as superior courts. In the circumstances, in the absence of such notification leave cannot be granted under Order XXII Rule 21 of the C.P.C. Execution

proceeding will have to be dismissed on the footing that this court will have no jurisdiction to execute the decree of the said Appellate Court. Execution proceeding is thus dismissed. I however, find that the present proceedings were prosecuted in good faith in this court though ultimately found to be not maintainable. The Bank Guarantee given by the Respondent No.1 in pursuance of order dated 25.6.2005 passed in Appeal Lodging No.355 of 2004 stands discharged.

3. Parties to act on the copy of this court duly authenticated by the registry of this court on payment of usual copying charges.

(R. S. MOHITE, J.)